

The Interim

A Monthly Publication
August 2014 Issue



In This Issue

Education & Local Government Committee ...	2
Revenue & Transportation Committee	2
Legislative Council	4
Law and Justice Committee	4
Energy & Telecommunications Committee	5
Legislative Audit Committee	5
Water Policy Committee	6
Economic Affairs Committee	7
Environmental Quality Council	8
Children, Families, Health, & Human Services Committee	9
The Back page: Increased aridity, early spring runoff challenge legislative panel	10

Legislative Orientation: We need your help!

Calling all legislators! Do you remember those first few days and weeks as a freshman lawmaker? When the rules seemed arcane and useless when you couldn't even find the nearest bathroom? Remember the "drinking from a firehose" feeling when you attended your first committee meetings and floor sessions?

If so, we need you. Your staff is recruiting veteran legislators who are willing to mentor the newest crop of freshman during the fall orientation events. "Wait," you say, "I know nothing of mentoring. What do I need to do?"

The tasks are simple: Attend the fall orientation sessions and share the lessons you've learned in your legislative career. The Nov. 12-14 orientation takes place in conjunction with legislative caucus meetings, so you'll likely already be in Helena. We hope you'll stick around for the training events and help smooth the pathways for incoming legislators.

Each legislator who attends orientation will be part of a small mentor group. The groups are designed to give legislators a chance to meet each other and staff and to learn the legislative ropes in a small group. Feedback from past orientations shows many newly elected legislators said they benefitted most from listening to other legislators, who had gone through the steep learning curve.

And that's where you come in. We need your experience, advice, and stories. We need you to attend orientation, participate in the mentor groups and other panels, and to pass along your lessons learned to others.

In fact, the first mentor group meeting will be for experienced legislators to share "What I Wish I Had Known as a Freshman." Your participation in those panels will be crucial. You are the only ones who know what it feels like to be in the shoes of a freshman legislator. Other opportunities to share your hard-earned wisdom are panels on managing time and workload, strategies for getting legislation enacted, and working with the media, constituents, and lobbyists. And these are just the formal opportunities. During mentor groups, training events, and the ever-popular orientation banquet, you'll have informal time to meet the new legislators and deepen relationships with the ones you already know.



Click on the Events Calendar
for up-to-date information
on committee meetings.

Convinced? Then contact Rachel Weiss or Hope Stockwell to sign on.

Rachel can be reached at 406-444-5367 or rweiss@mt.gov.

Hope can be reached at 406-444-9280 or hstockwell@mt.gov.

Education and Local Government committee to hold final meeting Sept. 15-16

The next -- and last of the interim -- Education and Local Government Interim Committee meeting is scheduled for Sept. 15-16 in Room 137 of the Capitol. The time of the meeting is yet to be determined, but agenda items include:

- a report from the State Historic Preservation Officer;
- an update from the Montana Library Association on the use of library finding as a result of House Bill 203 (2013);
- review of the House Joint Resolution 2 bill drafts and study report;
- discussion of a proposal related to local incident management; and
- Review of report from the Subcommittee on Shared Policy Goals for Education, including shared policy goal documents for the Montana University System and Montana's K-20 education system.

For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Pad McCracken, committee staff.

Committee Website: www.leg.mt.gov/elgic

Committee Staff: padmccracken@mt.gov or 406-444-3595

State Administration Committee to Review Pension and Political Practices Bills

The State Administration and Veterans' Affairs Interim Committee will meet Aug. 15 to review legislative proposals and bill drafts from the public retirement boards, the Commissioner of Political Practices, and the Department of Administration. The reviews are part of the committee's statutory duty to consider legislative proposals from assigned agencies and decide whether to authorize the agency proposals to receive an "LC" number, which places the bill in line to be drafted by Legislative Services Division staff. If the committee decides not to authorize an agency proposal for drafting, the proposal will not receive an LC number until the agency finds an individual legislator to put in the bill request.

The committee will also review and take action on the following committee bill drafts:

- LCsa01 (working draft) to require the governor to appoint the Commissioner of Political Practices from the list of individuals nominated by a committee of legislative leadership;
- LC0143 to generally revise election laws;
- LC0144 to revise the termination of certain employer and employee contributions in the public employees' retirement system;
- LC0145 to clarify the authority of the Secretary of State to charge certain fees; and
- LC0146 to revise the disclosure requirements for election materials.

The agenda also includes a panel discussion on veteran services and whether there should be statewide veterans' services coordinator or ombudsman.

The meeting is slated to begin at 8:30 a.m. in Room 137 of the Capitol. Public comment is welcomed as scheduled on the agenda. For a copy of the agenda and other meeting materials, please visit the committee's website or contact Sheri Scurr, committee staff.

Committee Website: www.leg.mt.gov/sava

Committee Staff: sscurr@mt.gov or 406-444-3596

RTIC wraps up oversize load, taxpayer appeal studies with bill requests

The Revenue and Transportation Interim Committee met July 16-17 to continue work on assigned studies of the taxpayer appeal process and the movement of oversize loads. The committee also received agency updates and heard a 2017 biennium outlook for the general fund budget.

SJR 23 Taxpayer Appeal Study

The committee heard presentations on requested additional information about the Department of Revenue's (DOR) use of mediation and an overview of how mediation is used in workers' compensation disputes, water rights claims, human rights complaints, and family law cases. The committee advanced a bill draft to allow industrial property taxpayers to choose whether to appeal directly to the State Tax Appeal Board or to appeal to the county tax appeal board. At the request of the committee, staff will work to further clarify the language in the draft and present a new version at the September meeting.

In May, the committee asked to review a draft that would allow certified public accountants to represent clients in tax appeal proceedings. The committee did not take action on the draft. The committee also requested a bill draft that would

clarify language in 15-1-211, MCA, regarding taxpayer rights related to alternative dispute resolution. The committee will review a draft final report for the Senate Joint Resolution 23 study at the September meeting.

SJR 26 Oversize Load Study

As requested at the May meeting, the committee received a map of commonly used oversize routes and a cost analysis for transporting an oversize load. The committee also worked through a decision tool that summarized issues raised throughout the study process and summarized testimony received.

The committee asked staff to prepare for the September meeting a bill draft directing the Montana Department of Transportation to designate preferred routes for oversize loads. The committee also discussed a funding mechanism to allow private companies to recover costs when other movers use a route, on which the company made improvements to make the route accessible to oversize loads. There was general agreement not to include the funding piece in the draft legislation at this time because of a lack of details. In addition to the requested bill draft, staff will provide a draft final report for Senate Joint Resolution 26 at the September meeting.

Revenue discusses upcoming reappraisal

The Department of Revenue discussed its 2015 property reappraisal with a presentation on the basics of reappraisal, how reappraisal is conducted, and estimated impacts for 2015. The property to be reappraised includes Class 3 agricultural property; Class 4 commercial, residential, and industrial property; and Class 10 forest property. The department also provided the committee with some ideas of how to simplify the state's property tax system. The committee previously requested this information during a discussion of how to reduce the number of property tax appeals.

The Department of Revenue also presented a required report on countries that may be considered tax havens, which included a recommendation to remove the Netherlands Antilles and Monaco from the tax haven list and to add the Kingdom of the Netherlands, Trinidad and Tobago, Guatemala, and Hong Kong. The committee did not take immediate action on the recommendation but did vote to retain the statutory tax haven reporting requirement.

The department wrapped up its agency update with a litigation report, a follow-up on how legislative changes have affected the entitlement share payment, and a presentation on agency requested legislative proposals. The committee authorized for drafting the six legislative proposals requested by the DOR.

Revenue estimating

The committee began planning for the revenue estimate by requesting that staff schedule presentations on the economic outlook of the state for the September meeting. The committee asked that the presenters to focus their presentations around assumptions used by the Legislative Fiscal Division (LFD). The committee discussed the revenue estimate and agreed with an LFD staff proposal to reorder the revenue sources in the revenue estimate and to list assumptions used in the estimate.

Legislative Fiscal Division staff also presented a 2017 biennium outlook for the general fund budget and an update on general fund revenue. Fiscal analyst Sam Schaefer provided the committee a report about use of confidence intervals to minimize forecasting error for the corporate income tax, a volatile revenue source.

Other matters

The committee voted to retain the Agricultural Land Valuation Advisory Committee, which advises the DOR on the appraisal of agricultural land. In May, the committee requested a bill draft requiring legislators on the advisory committee. Staff presented drafting options and will provide an updated draft in September.

Staff also presented an option to request a committee bill draft clarifying the entitlement share growth rate calculation procedure. A 2011 legislative change made unworkable the current requirement that the growth rate be calculated by Oct. 1 for the current year. The committee draft requires the growth rate be calculated by Oct. 1 for the next fiscal year.

The committee wrote a letter to DOR in February asking the agency to request a bill draft to revise penalty and interest provisions. The 2011 Revenue and Transportation Interim Committee worked with DOR and other stakeholders to draft House Bill 19 as a committee bill, and the bill passed the 2013 Legislature with strong support, but was vetoed by the governor. The did not request a penalty and interest bill, so the committee asked staff to bring a draft bill to the September meeting for consideration as a committee bill.

Next Meeting

The committee meets next on Sept. 4-5. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Megan Moore, committee staff.

Committee Website: www.leg.mt.gov/rtic

Committee Staff: memooore@mt.gov or 406-444-4496

Legislative Council to examine legislator pay, support services

Legislative Council members will discuss legislator compensation and benefits and other support services for legislators. The council meets next at 8 a.m. Sept. 4 in Room 102 of the Capitol.

The council will continue planning for the 2015 session. Members will review the preliminary 2017 biennium legislative branch budget, which will be submitted to the Office of Budget and Program Planning. The council will also discuss lawmaker pay and benefits.

Also on the agenda, the Rules Subcommittee is also scheduled to meet (with details to be determined), and the council will hear the recommendations for the 2017 legislative rules. Results from a survey on electronic communications will be reported; this survey will guide the Rules Subcommittee and the council in developing guidelines for the next legislative session. The council will consider its long-range planning role and receive information on the Capitol Master Plan and the 2011 Legislative Space study. It will also hear the final results from the House Joint Resolution 30 interim study on veteran's benefits.

The council also tentatively scheduled its last meeting of the year on Nov. 13 during legislator orientation.

For more information on the council's activities and upcoming meeting, visit the council's website or contact Susan Byorth Fox, committee staff.

Committee Website: www.leg.mt.gov/legcouncil
Committee Staff: sfox@mt.gov or 406-444-3066

Inquiry into pardons, parole nears end

The Law and Justice Interim Committee (LJIC) voted in June to request two committee bills generated by its study of family law and also directed staff to produce additional draft bills that would alter the structure and authority of the state parole board. These steps brought the LJIC closer to completing its interim work on the Senate Joint Resolution 22 study of family law procedures and alternatives, and the Senate Joint Resolution 3 study of the Board of Pardons and Parole.

For the SJ22 study, the LJIC voted to request committee bills that allow a husband to change his name as part of a dissolution proceeding. Current law already allows a wife to make that change. A second draft would clarify the parent who must make a motion to amend a parenting plan, when one parent relocates and the move makes the current plan unworkable. At its final meeting, the LJIC can reconsider those

drafts, or any of the other changes it considered through the interim but hasn't yet voted to make a formal committee bill.

After public comment and much discussion, the LJIC requested staff bring five additional bill drafts related to SJ3 to the LJIC's fall meeting for consideration. The bill drafts include language to:

- clarify that the governor may change the presiding officer of the Board of Pardons and Parole;
- revise how the presiding officer is compensated, including making the presiding officer a full-time position;
- increase the size of the board;
- prohibit the board from requiring additional treatment or programming if not required by a sentencing judge; and
- revise executive clemency laws to allow the governor to consider clemency requests even if the parole board does not recommend that the request be granted.

The LJIC will take public comment in the fall on these new drafts, as well as on four bill drafts it previously requested and chose to forward for further consideration. The committee must take action at the final meeting if it wants to forward any of the drafts to the 2015 Legislature as formal bills.

Shelby prison, re-entry task force, and collaborative law draw attention

In addition to its interim study work, the LJIC heard testimony about how the Department of Corrections (DOC) monitors its contracts, in particular the contract with the Crossroads Correctional Center (CCC) in Shelby. The CCC and DOC oversight of the facility have been the subjects of public comment during the current and previous interims. After discussion, the LJIC asked staff to draft a letter to the Legislative Audit Committee. The letter would request that the audit committee consider conducting a performance audit during fiscal year 2015 of the Department of Corrections' oversight of the CCC. In addition to the draft letter, the LJIC asked for a draft study resolution to study the Shelby prison during the 2015-2016 interim. Both drafts will be subject to public comment and committee discussion during the final LJIC meeting in the fall. After requesting the draft letter and study resolution, the LJIC then decided not to draft a letter to the FBI requesting an investigation of the CCC, which it had previously asked staff to do in April.

Other highlights of the June meeting included a presentation by members of the DOC Re-entry Task Force and a debate about collaborative law and how it might be used in Montana as an alternative to current methods used to resolve family disputes.

First, the task force members recapped their work over the past 18 months to understand challenges facing offenders as they reenter their communities after spending time in prison. The task force was created by House Bill 68 (2013), which was a committee bill requested by the 2012-2013 LJIC and carried by current presiding officer Rep. Margie MacDonald, D-Billings. After reviewing the task force's final report, the LJIC asked that staff draft legislation incorporating several of the task force recommendations, including easing housing burdens faced by former offenders and assisting prison workers to save more of their earnings for re-entry costs they will face upon leaving secure facilities.

The collaborative law discussion started before lunch and continued after the break, as several local attorneys described the alternative dispute resolution method, the uniform law some of them hoped Montana legislators would consider enacting and possible roadblocks the method might face in being adopted and used in the state. That discussion then segued into a presentation by the incoming president on the Board of Trustees of the Montana State Bar on work the trustees had done in May to consider family law revisions.

Next Meeting

The committee meets for the final time this interim on Sept. 3 in Room 102 of the Capitol. An agenda and other meeting materials will be available in late August. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Rachel Weiss, committee staff.

Committee Website: www.leg.mt.gov/ljic

Committee Staff: rweiss@mt.gov or 406-444-5367

Committee releases renewable energy report

The Energy and Telecommunications Interim Committee is asking for public comment on two bill drafts -- one to distribute about \$10 million to Montana counties for 9-1-1 services and a second to strengthen reporting requirements related to Montana's renewable energy mandate.

Committee members met July 18 in Helena to develop findings and recommendations related to its study of Montana's renewable portfolio standard. Since 2008, the Montana Renewable Power Production and Rural Economic Development Act, better known as Montana's RPS, requires certain utilities to procure a percentage of their resources from renewable resources.

A revised RPS report as well as findings and recommendations were adopted at the meeting. The findings range from statements that Montana's RPS should remain static at the current requirement of 15 percent by 2015 to statements re-

flecting disagreement among committee members about the RPS' contribution to improvements in air quality. In addition, the committee requested draft legislation requiring utilities to better quantify the benefits of Montana's RPS and their relation to costs. The draft legislation will require entities subject to the RPS to submit a report every two years to the ETIC that evaluates the costs and benefits of the RPS.

The draft report, findings and recommendations, and draft legislation will be available for public comment through Aug. 20.

During the July meeting, members also learned more about the use of 9-1-1 funds. The 2013 Legislature passed and approved legislation requiring fees collected for wireless enhanced 9-1-1 services be reallocated to wireless 9-1-1 jurisdictions and wireless providers under certain circumstances. While the reallocation has helped to better distribute money, some entities have raised concerns about the \$10 million still "stranded" in the 9-1-1 fund that could be used by other 9-1-1 related entities. The ETIC requested draft legislation allowing wireless providers to seek the money through October 2015. Any amount left in the account would be swept, with 1 percent going to each county and the remainder being distributed on a per capita basis. The draft bill is available for public comment through Aug. 20.

The ETIC also learned more about EPA draft rules requiring states to reduce carbon dioxide emissions in the power sector about 30 percent below 2005 levels by 2030. In Montana, carbon pollution needs to be reduced by about 21 percent by the deadline, according to the new, federal rule. Committee members are requesting the Environmental Quality Council form a subcommittee with the ETIC for the 2015-2016 interim in an effort to oversee the state's development of rules to comply with the federal requirement.

The ETIC next meets Sept. 8 in Helena. For more information on the September meeting or to comment on the draft reports or legislation, visit the committee's website or contact Sonja Nowakowski, committee staff.

Committee Website: www.leg.mt.gov/etic

Committee Staff: snowakowski@mt.gov or 406-444-3078

Legislative Audit passes peer review of quality control

A national review team found the Legislative Audit Division's quality control system conforms to accepted standards.

Auditing standards set by the U.S. Government Accountability Office (GAO) require a peer review of LAD every three years. A review team traveled to Montana in June to evaluate the division's work.

The team concluded that LAD has suitably designed, and complies with, a system of quality control that provides reasonable assurance the office is performing and reporting in conformity with applicable standards in all material respects. The review team included staff from state audit organizations in Connecticut, Colorado, Oklahoma, Indiana, and Tennessee, as well as the U.S. Department of Health and Human Services.

A peer review generally includes a review of audit documentation, a review of policies and procedures, and staff interviews. The next peer review of the LAD will occur in 2017.

National organization recognizes Montana audit

A national group recently recognized the work of the Legislative Audit Division, awarding a Certificate of Impact for one of the division's performance audits.

The National Legislative Program Evaluation Society awarded the certificate for the "School Transportation Funding and Safety" audit. The audit found that the ability to validate claims related to the state's school district transportation service system was limited and needed improvement so the Office of Public Instruction (OPI) could better verify reimbursement requests in this annual, \$17 million program. Additional recommendations were made related to OPI's oversight of safety requirements for the state's more than 2,000 buses and bus drivers.

Certificates of Impact are awarded to legislative audit offices for recently released reports that have at least two of the following documented policy impacts: impacts from the Legislature's perspective, impacts from the public's perspective, impacts from the perspectives of other organizations, program improvements as a result of implementing audit recommendations, and dollar savings from implementing audit recommendations.

The complete audit is on the Legislative Audit Division website, www.leg.mt.gov/audit, under 13P-01.

Committee scrutiny of CSKT water rights compact continues

The Water Policy Interim Committee (WPIC) again delved into specific aspects of a proposed water rights settlement with the Confederated Salish and Kootenai Tribes.

The WPIC formed the CSKT Compact Technical Working Group (TWG) in May. Since that time, the six-person TWG has received numerous reports, presentations and data as they seek to understand the technical elements of the proposed compact. The working group has examined data modeling files, evapotranspiration reports, and other studies of water use on the reservation, among other sources. Information

considered by and submitted to the TWG is available at leg.mt.gov/css/Committees/interim/2013-2014/Water-Policy/Committee-Topics/CSKT-workgroup/cskt-workgroup.asp.

The TWG will report its findings to the WPIC at its Sept. 8-9 meeting. Members of the TWG are: John Metesh, chairman, director of Montana Bureau of Mines and Geology; Andrew Brummond, water rights and streamflow specialist, Department of Fish, Wildlife and Parks (FWP); Larry Dolan, surface water hydrologist, Department of Natural Resources and Conservation (DNRC); Russell Levens, hydrosciences section supervisor, DNRC; Mike McLane, water resources specialist, FWP; Kirk Waren, senior research hydrogeologist, Montana Bureau of Mines and Geology.

At their July 8 meeting, the WPIC heard hours of testimony for and against the Water Use Agreement part of the compact. The Water Use Agreement would create a five-member board to oversee administration of water rights on the reservation.

The Water Use Agreement contains administrative processes, such as:

- filing for a water right;
- changing a water right;
- resolving disputes between users;
- creating a water engineer's office.

The water engineer would perform day-to-day administrative tasks related to water rights on the Flathead Indian Reservation, as well as enforce the terms of the compact and collaborate with the manager of the Flathead Indian Irrigation Project.

Aug. 7 meeting canceled, EPA update

Members of the WPIC voted to reschedule their Aug. 7 meeting for a date to-be-determined in October. Committee members are hoping to meet after the issuance of an economic analysis of the compact by the University of Montana's Bureau of Business and Economic Research, and after the Reserved Water Rights Compact Commission and the tribe conclude renegotiation sessions this summer.

Scientists from the EPA presented a proposed, new definition of "waters of the United States" to the committee. The new definition may have impacts on agricultural users and those requiring federal dredging permits. A copy of the EPA presentation is available at the committee website.

Committee issues draft report on ditch disputes

The WPIC also approved a draft report on House Joint Resolution 26 – a study of ditch easement disputes.

The report is available for review on the committee's website. Comments may be sent to the WPIC at P.O. Box 201704, Helena, MT 59620-1704, or emailed to jasonmohr@mt.gov with the subject line, "HJ26 comments."

All comments received by 5 p.m. on Aug. 16 will be compiled and reviewed by the WPIC prior to its September meeting. Comments received after the deadline will be provided to the WPIC at the meeting. Comments are welcome in person at the meeting as well.

Next Meeting

The committee meets next on Sept. 8-9. For more information on the committee's activities and upcoming meeting, visit the committee's website or contact Jason Mohr, committee staff.

Committee Website: www.leg.mt.gov/water

Committee Staff: jasonmohr@mt.gov or 406-444-1640.

Economic Affairs moves ahead on honey, workers comp bills

The Economic Affairs Interim Committee chose two disparate topics for committee bills at its July 14-15 meeting, asking for a bill to make raw honey eligible to be sold at farmers' markets without a license, and a different bill to require insurers to provide loss reports to other insurers.

The committee also continued work on a bill to put Montana State Fund under the regulation of the Insurance Commissioner and reviewed financial issues related to the Department of Livestock, suggesting a possible committee bill to align per capita reporting and payment dates.

The raw honey bill was one of several recommendations that came out of a study required under House Bill 630, which called for an examination by three departments of Montana's food laws. Two of the departments, Agriculture and Livestock, are under the purview of the Economic Affairs committee. The third was the Department of Public Health and Human Services, which is monitored by the Children, Families, Health, and Human Services Interim Committee.

Committee: Require insurance loss reports

The Insurance Commissioner's Office told the committee that after a recent court case, an out-of-state workers' compensation insurance provider decided to stop providing the loss report information in Montana. Other insurers use the information to determine risks and pricing if an employer wants to switch coverage. Bob Biskupiak with the Montana Independent Insurance Agents Association said that within the insurance industry an insured's policy is considered to be the property of the insured, so if the insured person asks a

previous insurer to provide loss information to a prospective insurer, that information normally has been given. He and Laurence Hubbard, president and chief executive officer of the Montana State Fund, said that other states have passed legislation to require the loss reports. The committee will review a bill draft at its last meeting on Sept. 12.

Concerns focus on veterinary lab, Livestock deficit

The Economic Affairs committee considered concerns about the state Veterinary Diagnostic Laboratory and the Department of Livestock's budget deficit.

The committee discussed reports of financial concerns at the veterinary laboratory, a survey of Montana veterinarians about their use of the laboratory, and the feasibility of constructing a building at Montana State University-Bozeman that combines the vet diagnostic laboratory with the state's wildlife laboratory.

The chief executive officer of the Department of Livestock discussed the department's budget deficit, which he said had dropped from an initial estimate of \$800,000 this spring to \$135,000 in July based on new receipts. The budget concerns involve the Brand Inspections Division and the Veterinary Diagnostic Laboratory.

The committee asked for a report at its Sept. 12 meeting of how many laboratory tests relate to animal health and how many to human health -- in part to help determine if there is a rationale for the department wanting more general fund support for the diagnostic laboratory. The committee also suggested a bill draft for its next meeting that would align dates for reporting per capita herds and payment of the fees to aid in compliance.

State fund, unemployment insurance, OSHA

The committee took no action on the workers' compensation study either for a bill to put Montana State Fund under the regulatory authority of the Insurance Commissioner or to provide a way for self-insured businesses to recoup from at-fault third parties more damages than they currently can collect. The bill that would revise regulation of Montana State Fund will continue to be worked on and will be back before the committee Sept. 12 for consideration as a committee bill.

As monitor of a variety of Montana industries, the committee also heard:

- Updates from the Department of Labor and Industry (DLI) regarding current and proposed changes to how the Unemployment Insurance Division operates. These include increased use of electronic services, attempts to encourage quicker re-employment of the unemployed, a more complete review of alleged misconduct situations, more flexibility on reporting timelines, and a review of

the definition of total unemployment. Potential legislation may request use of lump sum payments, if that can reduce costs compared to payments over time, and the ability to garnish wages if someone received too much in unemployment benefits. Glenn Oppel of the Montana Chamber of Commerce said his organization is working with the department on misconduct assessment concerns and is working on proposals to allow employers to hire seasonally, but not be required to pay unemployment in the off season. He also noted concerns about re-determinations and compliance red tape. Jay Reardon of Laborers' Local 686 agreed that re-determinations of unemployment were not transparent and that red tape was equally a problem for employees. He said unions would oppose efforts to eliminate unemployment benefits for seasonal workers.

- A proposal from the Employment Relations Division of the DLI to begin a process for the state -- rather than the federal government -- to enforce the Occupational Safety and Health Act (OSHA). About 25 states run their own programs, and the federal government handles the OSHA program in Montana and the remaining states. The committee asked for more information on the costs of running an OSHA program for private companies in Montana and encouraged the private sector to work with the department on areas where standards might be adopted that are different from the federal plan. Representatives of the Grain Elevators Association and the Montana Chamber of Commerce said they would be wary of greater standards than the federal government imposes. In some areas such as the oil and gas industries, the federal government does not have standards, according to Greg Baxter with OSHA's regional office in Denver.
- A review of financially troubled professional and occupational licensing boards. Adam de Yong of the Business Standards Division, which oversees licensing boards and programs, outlined the conundrum of the boxing program, which cannot operate until its finances improve but needs the division's assistance in conducting money-raising boxing matches. Several advocates requested the program be given more time to work out costs and cost-sharing. De Yong provided information indicating the boards of Funeral Services and of Hearing Aid Dispensers would be operating in the black under fee increases that have gone into effect. For the Board of Private Alternative Adolescent Residential and Outdoor Programs, de Yong said the Department of Public Health and Human Services might license and oversee the schools and facilities that serve troubled teenagers through camping and other nontraditional schooling.
- a review of the financing mechanisms in the state, which came about because the Department of Labor and Industry suggested that licensing boards operate as enterprise funds rather than under state special revenue accounts. Julie Feldman of the Department of Administration explained how each operates and said there is no reason to change the current operations, in part because the state is encouraged to limit its number of funds.

Next meeting

The committee meets for the last time this interim at 8:15 a.m. Sept. 12 in Room 137 of the Capitol. This meeting will include proposed bill drafts by the various agencies that report to the Economic Affairs Interim Committee. For more information about the committee's activities and upcoming meeting, visit the committee's website or contact Pat Murdo, committee staff.

Committee Website: www.leg.mt.gov/eaic

Committee Staff: pmurdo@mt.gov or 406-444-3594

EQC seeks comments on hunting license fees, historic properties, federal lands

Public comment is welcome on legislative reports and proposed legislation dealing with hunting and fishing license fees, the administration of historic properties in Virginia and Nevada cities, and federal land management.

The Environmental Quality Council (EQC) in July approved drafts of the reports and draft bills in order to seek public comment. The comment period ends Aug. 16. Comments will be reviewed and discussed at the September meeting of the EQC before final decisions are made.

Council reports include:

- House Bill 609 (Interim study of hunting and fishing licensing): This report is required by HB 609, which asked the EQC to study Montana's hunting and fishing license statutes and fees. The governor tasked a citizens' advisory council with a similar study, and the EQC has incorporated that effort into its own work. The advisory council proposed a slate of recommendations for simplifying and streamlining Montana's hunting and fishing licenses, as well as generating additional revenue for the Department of Fish, Wildlife, and Parks. The EQC approved drafting of that bill with two changes for public comment. Email your comments to hstockwell@mt.gov. Please include "HB 609 Licensing Study" in the subject line.
- Senate Joint Resolution 4 (Reviewing management of state-owned properties at Virginia City, Nevada City, and Reeder's Alley) -- This report is required by SJ 4, passed by the 2013 Legislature in an effort to continue a

study of state parks and outdoor recreation and heritage resource programs that the EQC conducted during the 2011-2012 interim. The joint resolution reflected the EQC's opinion that the previous review management of state-owned properties at Virginia City, Nevada City, and Reeder's Alley in Helena had been beneficial and should continue. The report includes legislation to assist the effective operation of the Montana Heritage Preservation and Development Commission and to focus the Commission's efforts on preserving and maintaining properties previously acquired by the state. Email your comments to lekurtz@mt.gov. Please include "SJ 4 Study" in the subject line.

- Senate Joint Resolution 15 (Evaluating federal land management in Montana) -- This report is required by SJ 15, passed by the 2013 Legislature. The resolution called for evaluating the management of certain federal lands in Montana, specifically U.S. Forest Service and the Bureau of Land Management. Federal agencies manage about one-third of the land in Montana. Many of the nation's natural resources occur on these lands, including timber, forage, minerals, coal, oil and gas, water, and wildlife. Management of these lands affects local economies, tax bases, employment opportunities, public safety, the surrounding environment, and recreational opportunities. The report does not include any legislation to be proposed by the EQC, but has a number of findings and recommendations mostly related to state and local involvement in the management of federal lands. Email your comments to jkolman@mt.gov. Please include "SJ 15 Federal Land Study" in the subject line.

All of the proposed bill drafts and two draft study reports are available for review on the EQC's website at www.leg.mt.gov/eqc. Click on the link to "comment on draft report and proposed legislation." Comments may be sent to the EQC at P.O. Box 201704, Helena, MT 59620-1704.

All comments received by 5 p.m. on Aug. 16 will be compiled and reviewed by the EQC prior to its Sept. 10-11 meeting in Helena. Comments received after the deadline will be provided to the EQC at the meeting. Comments are welcome in person at the meeting as well. An agenda and all other meeting materials for the September EQC meeting will be made available on the EQC's website approximately two weeks in prior to the meeting.

Next Meeting

The EQC meets next on Sept. 10-11. For more information on the EQC's activities and upcoming meeting, visit the Council's website or contact Joe Kolman, council staff.

Committee Website: www.leg.mt.gov/eqc

Council Staff: jkolman@mt.gov or 406-444-3747

CFHHS considers bill drafts for institutions, prescription drug studies

The Children, Families, Health, and Human Services Interim Committee agreed in late June to proceed with bill drafts to fund community mental health crisis services and to allow health care providers to share certain information with law enforcement.

The committee also asked for additional bill drafts for review at its final meeting on Aug. 26. Those bills would:

- increase and continue a fee for the Montana Prescription Drug Registry;
- require an adult to pick up narcotic prescriptions for minors; and
- provide funding for a prerelease center for people who have committed a crime but have been found to be mentally ill.

The bill drafts stem from the committee's House Joint Resolution 16 study of state-operated institutions and the Senate Joint Resolution 20 study of prescription drug abuse. The HJ 16 study focused in particular on the mental health services provided at state institutions, including the Montana State Hospital in Warm Springs, the Montana Developmental Center in Boulder, and the Montana State Prison in Deer Lodge.

Mental Health Services

In June, the committee reviewed and took public comment on four HJ 16 bill drafts. Members also reviewed information on the potential costs of a community forensic facility for people who have been found to be guilty but mentally ill. The committee:

- asked for changes to bill draft LCCF05, which would have appropriated \$1 million over the biennium for grants to help counties create mental health crisis and jail diversion services. The changes would increase the appropriation to \$2 million, revise the formula for making grant awards, and remove a requirement that the new money be used to expand services.
- asked for a minor technical change to bill draft LCCF04, which would appropriate \$345,000 a year to hire five more employees to work with developmentally disabled individuals who are experiencing a mental health crisis that could result in their commitment to the Montana Developmental Center. Members also approved a letter asking that Gov. Steve Bullock include funding for the positions in his proposed budget.

- made no changes to two other bill drafts. Bill draft LCCF06 would appropriate \$600,000 a year to pay for additional secure detention beds in the community, as an alternative to providing crisis treatment and evaluations at the Montana State Hospital. Bill draft LCCF07 would appropriate \$1 million over the biennium to pay for voluntary treatment in the community for people who are facing an involuntary commitment proceeding.

The committee also asked that two bills for forensic prerelease centers be drafted for review in August. One bill would appropriate money so the state could contract with a private vendor to operate a facility. The other would require the state to operate the facility. Both bills would appropriate \$3 million over the biennium.

Prescription Drug Bill Drafts

The committee reviewed and agreed in June to proceed with two bill drafts for the SJR 20 study of prescription drug abuse.

Bill draft LCCF02 would amend state law to clearly state that health care professionals may notify law enforcement when they believe patients are illegally obtaining prescription painkillers or may cause an imminent threat to public health or safety. The bill also would provide immunity from suit for providers who share that information.

Bill draft LCCF03 would allow health care providers to submit controlled substances prescriptions to pharmacies by electronic means.

The committee decided against proceeding with a bill draft that it first considered in May. Bill draft LCCF01 would have required several state health care licensing boards to adopt rules for how providers should manage chronic pain caused by conditions other than cancer. Among other things, the rules would have set dosing guidelines for prescription painkillers.

Also in June, the committee asked for a bill draft to continue the fee that is used to help cover the costs of the Montana Prescription Drug Registry. The fee is collected from prescribers and dispensers of prescriptions containing controlled substances. It will expire on July 1, 2015, unless the 2015 Legislature continues it. The draft bill would continue the fee for four years and double it from \$15 a year to \$30 a year.

Members also asked for bill draft to require an adult to pick up narcotic prescription drugs for a minor. Members will review and take public comment on both bill drafts in August before deciding whether to introduce the bills in the 2015 session.

Also in August

The committee will hold its final meeting in August. Members will:

- review, take public comment, and make final decisions on committee legislation related to their studies;
- hear a report on the Montana Strategic Suicide Prevention Plan and the activities of the newly formed Montana Suicide Review Team; and
- review legislation that the Department of Public Health and Human Services would like to have drafted for pre-introduction in the 2015 Legislature.

Next Meeting

The committee meets next on Aug. 26 in Room 137 of the Capitol. For more information on the committee's activities and upcoming meeting, visit the committee's Web site or contact Sue O'Connell, committee staff.

Committee Web Site: www.leg.mt.gov/cfhhs

Committee Staff: soconell@mt.gov or 406-444-3597

Increased aridity, early spring runoff challenge legislative panel

Temperature and precipitation records in Montana indicate the state – and its agricultural producers – may be facing increasingly arid conditions. One long-term climactic change has already arrived in Montana: Spring runoff begins two weeks earlier, potentially causing disarray or necessary adjustments by all who depend on water in the state.

A panel of Montana university scientists delivered this climate news to the Water Policy Interim Committee at its January 2014 meeting titled "Future of agricultural water use." While the committee has taken no formal action on this issue, the discussion gave its members a glimpse of what the future may hold for agriculture, a hint at what policy-makers might do about it, and how farmers may survive and thrive.

Climate change in Montana

Precipitation trends in Montana appear less dramatic than trends in other parts of the United States, while temperature trends in Montana show a slight increase.

Montana's mean annual air temperature has increased about 1 degree Centigrade (1.8 degrees Fahrenheit) in the past 60 years.¹ Additionally, the annual minimum and maximum temperatures have shown a "positive trend" since 1895 largely due to decadal changes in Pacific coastal weather patterns.²

The state's precipitation trend hasn't changed much, although it is somewhat variable depending upon the region. For ex-

Future of agricultural water panelists

Kelsey Jencso, state climatologist, Montana Climate Office, University of Montana

Paul Stoy, assistant professor, Department of Land Resources and Environmental Sciences, Montana State University

Tim Davis, administrator, Water Resources Division, Department of Natural Resources and Conservation

Marco Maneta, assistant professor, Department of Geosciences, University of Montana

ample, precipitation has decreased about 5 percent along the state's Hi-Line region, while increasing about 5 percent in the state's southern counties.³

Effects of increased atmospheric energy

But temperature and precipitation are just two measures of climate. Specific humidity, air pressure, wind speed, incident shortwave radiation, and downwelling longwave radiation are other climatological factors.⁴

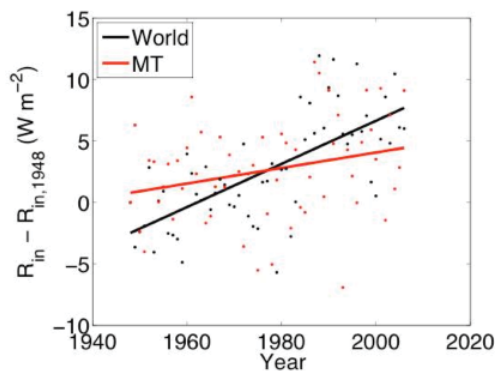


Figure 1: Incident radiation trends

Aridity can be measured as a function of precipitation and potential evapotranspiration. Farmers must consider the rate of evapotranspiration – “the sum of evaporation from the land surface plus transpiration from plants”⁵ – when watering their crops. Evapotranspiration increases when incident radiation – energy from the sun that hits the earth – increases. In Montana, incident radiation is not increasing as fast as it is globally, but it is increasing (see Figure 1⁶). And Montana has less water available than the global mean.

Because an increased amount of radiation energy increases evapotranspiration, the state's aridity is increasing. In short, there is now more energy to move water to the atmosphere.⁷

Early mountain snow runoff observed

Montana's farms and cities depend on snowpack to provide water. Runoff fills rivers and streams for later diversion, and also rushes underground to recharge the drinking water supplies in groundwater aquifers. In late summer, when waterways shrink and snowpack is diminished or gone, groundwater recharges rivers and streams to keep them viable.

Research shows Montana's mountain snowpack is changing.⁸

Scientists have observed an overall decrease in regional snowpack and that snowpack is melting earlier. This trend may be buffered slightly by increased late spring precipitation. But earlier runoff may result in even less water during the typically driest months of July through September.

Changes in snowpack may provide challenges to Montana's agricultural producers. And it may lead to more wildfires, as an earlier snowmelt means the forests will be exposed to a longer fire season.

Legal ramifications of early snowmelt

A Montana water right statement of claim includes many attributes: name of the water source, quantities of use, times of use (period of use), point of diversion, places of use, purpose of use, priority date.⁹

“Period of use” is when an irrigator stops and starts using water. Most water rights are year-round claims to water. But about 27 percent of claims have a starting and an ending date that mimic the irrigation – and growing – season.¹⁰

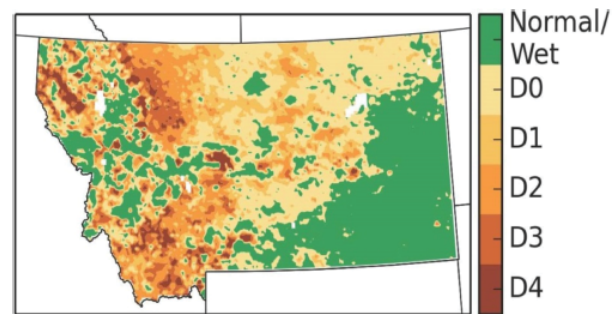


Figure 2: Satellite-derived drought severity index, Aug. 2012

Water rights claims are, in part, an historic artifact. Users based their claims on the conditions at the time water was first diverted. When the snowpack melt started to swell rivers and streams undoubtedly influenced their claims.

If that historical experience is changing, couldn't the state Water Rights Records Program do everybody a favor and alter the water rights database, shifting everybody two weeks forward, where necessary?

Perhaps not so fast.

As the law currently stands, any change in a water right – the place of use, the amount, the point of diversion, the source – must undergo extensive review by the Department of Natural Resources and Conservation. According to state law, “the department [DNRC] shall issue a permit if the applicant proves by a preponderance of evidence that the following criteria are met...[including that] the rights of a prior appropriator under an existing water right, a certificate, a permit, or a state water reservation will not be adversely affected.”¹¹

Any change to a water right is publicly noticed and subject to objections from other water users – neighbors and others upstream and downstream. Any change in a water right has the potential to “adversely affect” another water rights holder. If a change in water right is determined to create an adverse effect on another user, the change may be denied or the “changee” may need to take steps to mitigate the new use, such as securing other water rights to keep supply adequate or adjust their period of use.

Thus a wholesale change in water rights’ “period of use” would likely be a legal nightmare.

Committee members discussed possible legislation allowing conservation districts to temporarily store early runoff, as a way to cope with the new reality.¹² And water users – specifically local governments – are already taking steps to prepare for earlier high water to head off flooding issues.

Lawmakers: Better data may be next, best step

What could a state lawmaker do to help the state’s agricultural producers prepare for the possibility of a more arid future and water potentially arriving early? At the WPIC’s January meeting, suggestions were made to improve the quality of information farmers get.

To quantify water and weather patterns, scientists must gather point-source data from weather stations and more-sophisticated “raster” data from NASA-based satellites. (A raster map is a data layer consisting of a gridded array of cells.)

That can be achieved by combining existing information, such as what the state’s climate stations might gather, and adding new types of information, such as satellite data, topographic data, and land use land cover (LULC) data (see Figure 2 and Table 1).

But data from thousands of climate stations and hundreds of satellite flybys mean nothing if the information is not accessible to those who need it – farmers and other water users. Science has moved beyond just data collection, toward data dissemination and use by the public.¹³ There are 28 entities that receive federal funds to develop climate data products, but those data are not housed in one central entity that exists to serve the interest of the citizens of Montana.¹⁴ For now, the State Climate Office is working with the Montana State Library to develop a centralized information location with consistent, accessible products.¹⁵

More concretely, the committee discussed how the state could fund new data-gathering towers, possibly through the state’s research stations.¹⁶ Other state-funded climate offices in Oklahoma, Kentucky, Texas, and Iowa, maintain meteorological observation networks for drought and hazard assessments in real time.¹⁷

Ag producers adjust

Regardless, farmers will likely adjust to whatever the climate or whatever the actions by policymakers.

In a study of California producers, University of Montana scientist Marco Maneta used remote sensors to measure how producers adjust the amount of land, water, fertilizer, and labor they allocate for each crop in response to environmental, policy and market conditions. Among his findings¹⁸, his study found:

- The impact of water shortage on rural economies is complex, and does not necessarily scale with the shortage of water.
- Farmers react to reduced access to water by reallocating land and water, hiring fewer employees, or “stress irrigating” crops to reduce costs or to improve profitability.

Maneta hopes to conduct similar research to produce “hydro-economic models” in Montana, which may help producers quantitatively understand how they may respond to a shortness of water.

And reduction scenarios would help groups of water users who voluntarily reduce use in times of water shortage, such as the Blackfoot Challenge.

State Water Plan

Last year, the DNRC – with the help of advisory groups in each of the state’s major river basins – have been busily

Table 1: Data products from satellites

Normalized Difference Vegetation Index (NDVI)

Measures vegetation health and productivity

Evapotranspiration (ET)

Measures evaporation from ground or vegetated surfaced, combined with plant transpiration

Drought Severity Index (DSI)

New way to accurately quantify the spatial and temporal persistence of drought at 1 square kilometer.

updating the State Water Plan. The plan will include an inventory of today's uses and an estimate of future water needs. The plan is scheduled to be delivered to the 2015 Legislature. This information, along with testimony from the WPIC's Jan. 2014 meeting, may provide legislators with future policy options related to climate change.

¹ Stoy presentation to WPIC, Jan. 7, 2014

² Jencso presentation to WPIC, Jan. 7, 2014

³ Ibid.

⁴ Stoy presentation to WPIC, Jan. 7, 2014

⁵ U.S. Geological Survey (<http://water.usgs.gov/edu/watercycleevapotranspiration.html>)

⁶ Stoy presentation to WPIC, Jan. 7, 2014

⁷ Ibid.

⁸ Jencso presentation to WPIC, Jan. 7, 2014

⁹ 85-2-224, MCA

¹⁰ Water Resources Division, Montana Department of Natural Resources and Conservation

¹¹ 85-2-311, MCA

¹² Discussion by Sen. Hamlett, WPIC, Jan. 7, 2014

¹³ Stoy presentation to WPIC, Jan. 7, 2014

¹⁴ Jencso presentation to WPIC, Jan. 7, 2014

¹⁵ Ibid.

¹⁶ Discussion by Sen. Vincent, WPIC, Jan. 7, 2014. The Montana University System includes the Agricultural Experiment Station at Montana State University in Bozeman, which includes agricultural research centers in Moccasin, Corvallis, Havre, Huntley, Kalispell, and Sidney (20-25-224, MCA). Additionally, the university system includes the Montana Forest and Conservation Experiment Station at the University of Montana at Missoula (20-25-241, MCA), of which the State Climate Office belongs.

¹⁷ Jencso presentation to WPIC, Jan. 7, 2014

¹⁸ Maneta presentation to WPIC, Jan. 7, 2014